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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,196	12/22/2000	Donald E. Weder	8403.303	4068

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EXAMINER

GELLNER, JEFFREY L

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 02/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/747,196

Applicant(s)

WEDER, DONALD E.

Examiner

Jeffrey L. Gellner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 32 and 33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32 and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Terminal Disclaimer*

The terminal disclaimer filed on 19 November 2002 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US 6,182,392 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall et al. (US 4,149,339) in view of Schiro (US 4,666,115).

As to Claim 32, Hall et al. discloses a floral display assembly (Figs. 1-3) comprising a floral grouping (36 of Fig. 1) having a bloom end (shown in Fig. 1) and a stem end ("stem" of Fig. 1); and, a sheet of material (11 and 12 of Fig. 3 when "joined together" of col. 1 line 52) wrapped about at least a portion of the stem end (stem portion that is close to the soil in Fig. 1) so that the bloom end of the floral grouping is exposed (Fig. 1); the sheet of material being releasably connected (by virtue of 27 of Figs. 1 and 3); and, substantially the entire length of the wrapped floral grouping is visible (see Fig. 1). Not disclosed is a wall and the sheet of material connected to the wall. Schiro, however, discloses a wall (40 of Fig. 1) with a floral grouping

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display assembly (46 and 38 of Fig. 1) releasably connected to the wall (via 16 of Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the assembly of Hall et al. by using with the wall and connection as disclosed by Schiro so as to use a plant holder with a reservoir on the wall so as to avoid constant watering of the floral grouping.

As to Claim 33, Hall et al. discloses a floral display assembly (Figs. 1-3) comprising a floral grouping (36 of Fig. 1) having a bloom end (shown in Fig. 1) and a stem end ("stem" of Fig. 1); and, a sheet of material (11 and 12 of Fig. 3) when "joined together" of col. 1 line 52) formed to define a container (11 and 12 of Fig. 3), the floral grouping disposed in the container (Fig. 1) with bloom end of the floral grouping is exposed (Fig. 1); the sheet of material being transparent (col. 1 lines 49-51) and releasably connected (by virtue of 27 of Figs. 1 and 3); and, substantially the entire length of the wrapped floral grouping is visible (see Fig. 1). Not disclosed is a wall and the sheet of material connected to the wall. Schiro, however, discloses a wall (40 of Fig. 1) with a floral grouping display assembly (46 and 38 of Fig. 1) releasably connected to the wall (via 16 of Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the assembly of Hall et al. by using with the wall and connection as disclosed by Schiro so as to use a plant holder with a reservoir on the wall so as to avoid constant watering of the floral grouping.

### ***Response to Arguments***

Applicant's arguments with respect to claims 32 and 33 have been considered but are moot in view of the new ground(s) of rejection. In anticipation of a further argument Examiner

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considers the sheet of material of Hall et al. to be wrapped about the floral grouping by using the definition of to wrap to be "to envelop" or "enfold, embrace" of Merriam-Webster's Collegiate Dictionary, 10<sup>th</sup>, page 1366.

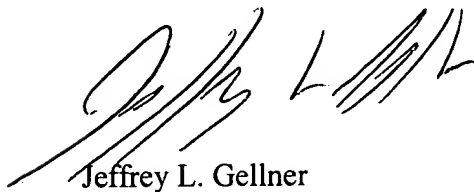
### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sable, Weder et al. ('506), Hicks, and Pruchnow disclose in the prior art various floral display assemblies. Pesola et al. discloses in the prior art a wall and connection.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 703.305.0053. The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The Examiner can also be reached on alternate Fridays.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 703.308.2574. The fax phone numbers for the Technology Center where this application or proceeding is assigned are 703.305.7687, 703.305.3597, and 703.306.4195.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.



Jeffrey L. Gellner